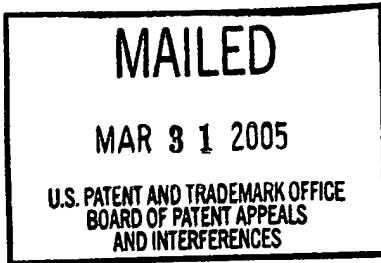


The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ARTHUR P. FRAAS,
RICHARD L. FURGERSON, and
HAROLD L. FALKENBERRY



Appeal No. 2005-0035
Application No. 08/835,419

ON BRIEF

Before GARRIS, WARREN, and TIMM, Administrative Patent Judges.
GARRIS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

This is in response to a request, filed February 14, 2005, for rehearing of our decision, mailed January 12, 2005, wherein we sustained the Examiner's § 103 rejection of claims 1-4, 6, 9, 11-14, 16, 19, 22 and 23 as being unpatentable over Selep in view of Dospoy.¹

On pages 1-3 of their request, the Appellants argue that, in deciding to sustain the Examiner's above noted rejection, we

¹The Examiner's other § 103 rejections of the remaining claims on appeal were not sustained.

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ignored certain claim features. In particular, the Appellants seem to believe that we ignored the claim 1 feature "an enclosure around the vessel for preventing air from contacting the bed of coal particles" and the claim 11 feature "preventing air from contacting the bed of coal particles." The Appellants argument is not well taken.

In both the Appellants' subject appeal as well as the Appellants' prior appeal (i.e., Appeal No. 1999-2120), claims containing these features were presented for our review. Moreover, our ultimate conclusion of obviousness with respect to such claims included a thorough consideration of these features in both appeals. For example, see page 5 of our decision in the subject appeal which includes a discussion of Selep's "apparatus and a process for feeding coal particles into a pressurized gasification reactor or kiln in such a way as to prevent air in the ambient atmosphere from flowing into the apparatus" and which refers to the reasoning set forth in our decision on the Appellants' prior Appeal No. 1999-2120. Finally, it is appropriate to emphasize that Selep's apparatus and process would be incapable of achieving the desideratum of preventing air from entering the

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apparatus (e.g., see the abstract) if patentee's vessel for feeding carbonaceous material were not enclosed as the Appellants' seem to believe.

In addition, the Appellants argue that neither Selep nor Dospoy would have suggested the vibrating feature recited in claims 1 and 11. However, for the reasons set forth in pages 9 and 10 of our decision (which include as a quotation the obviousness rationale and conclusion expressed by the Examiner on page 4 of the answer), it would have been obvious for one with ordinary skill in this art to provide the apparatus and process of Selep with a vibrating coal feeding means of the type taught by Dospoy. This provision would have enhanced the achievement of Selep's objective of feeding carbonaceous material such as coal via a vibrating feature evinced by Dospoy as being well known in the art for this purpose. Furthermore, the result of this provision, that is, a vibrating means of the type taught by Dospoy connected to Selep's vessel, would fully satisfy the requirements of appealed claims 1 and 11.


In light of the foregoing, we maintain our decision to sustain the Examiner's § 103 rejection based on Selep in view of Dospoy notwithstanding a full consideration of the arguments advanced by the Appellants in the subject request.


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Therefore, the request for rehearing is hereby denied.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

DENIED


BRADLEY R. GARRISS
Administrative Patent Judge


CHARLES F. WARREN
Administrative Patent Judge

BOARD OF PATENT
APPEALS
AND
INTERFERENCES

Catherine Timm
CATHERINE TIMM
Administrative Patent Judge

BRG/jrg

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